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U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

JUAN MANUEL GONZALES,

Petitioner - Appellant,

v.

C. A. TERHUNE, in his capacity as head
of the California Department of
Corrections,

Respondent - Appellee.

No. 07-15120

D.C. No. CV-03-01565-TEH

MEMORANDUM *

Appeal from the United States District Court
for the Northern District of California
Thelton E. Henderson, District Judge, Presiding

Submitted February 18, 2009**

Before: BEEZER, FERNANDEZ, and W. FLETCHER, Circuit Judges.

Juan Manuel Gonzales, a California state prisoner, appeals pro se from the
district court's judgment denying his 28 U.S.C. § 2254 petition. We have

* This disposition is not appropriate for publication and is not precedent
except as provided by 9th Cir. R. 36-3.

** The panel unanimously finds this case suitable for decision without
oral argument. See Fed. R. App. P. 34(a)(2).

jurisdiction pursuant to 28 U.S.C. § 2253, and we affirm.

Gonzales contends that the government violated his due process rights under *Brady v. Maryland*, 373 U.S. 83 (1963), by failing to disclose the identity of a potential exculpatory witness. Based upon our independent review of the record, we conclude that the state court's decision rejecting this claim was not contrary to, and did not involve an unreasonable application of, clearly established federal law, as determined by the Supreme Court of the United States, nor was it based on an unreasonable determination of the facts in light of the evidence presented in state court. *See* 28 U.S.C. § 2254(d); *see also Wood v. Bartholomew*, 516 U.S. 1, 5-6 (1995).

We construe Gonzales's briefing of uncertified issues as a motion to expand the certificate of appealability, and we deny the motion. *See* 9th Cir. R. 22-1(e); *Hiivala v. Wood*, 195 F.3d 1098, 1104-05 (9th Cir. 1999) (per curiam).

AFFIRMED.